IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 24TH MAY 2007 / 3RD JYAISHTA 1929

Crl.MC.No. 1558 of 2007()

CRMP.1361/2007 of JUDL.MAGISTRATE OF FIRST CLASS-II, MANANTHAVADY

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PETITIONER: PETITIONER:

VIVEK, S/O.MATHAI,
AGED 27 YEARS, VELLAMTHADATHIL HOUSE,
ANJUMUKKU, MANANTHAWADY, WAYANADU.

BY ADV. SRI.JESWIN P.VARGHESE

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P. SRI. JIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 24/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 1558 OF 2007

Dated this the 24th day of May, 2007

ORDER

The petitioner claims to be aggrieved by an order passed by the learned Magistrate under Sec.451 of the Cr.P.C. refusing to return a vehicle seized in an abkari crime on the ground that the confiscation proceedings under Sec.67B of the Kerala Abkari Act are pending.

2. Admittedly, the vehicle has been seized and the seizure reported to the court. The learned Public Prosecutor submits that pending disposal of Sec.67B proceedings and subject to liability to produce the vehicle before the authorities under Sec.67B and subject to appropriate safeguards, the vehicle can be directed to be released to the petitioner. It will have to be zealously ensured that the vehicle will be available to be proceeded against under Sec.67B of the Abkari Act. Appropriate safeguards must also

be taken, it is urged.

3. I am satisfied, in these circumstances, that this Crl.M.C. can be allowed subject to conditions.

4. This Crl.M.C. is accordingly allowed. The vehicle in question shall be released to the petitioner on the following terms and conditions:

(i) The petitioner shall produce all documents to show that he is the person owning and entitled to the possession of the vehicle in question.

(ii) He shall execute a bond for such amount equivalent to the value of the vehicle as may be fixed by the learned Magistrate in his discretion after hearing the respondents. The learned Magistrate shall insist on production of bank guarantee or such appropriate adequate safeguards before releasing the vehicle.

(iii) The petitioner shall keep the vehicle in the same condition in which it is handed over to him and shall produce the same as and when directed by the learned Magistrate. He shall also make the same available before the authorities under

Sec.67B of the Abkari Act as and when directed in accordance with Sec.67B of the Abkari Act.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge